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United States of America
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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,
11
12 Plaintiff,
13 v.

14 ALBERTO GARIBAY,
15
16 Defendant.

CASE NO. 2:24-CR-00067 JAM

STIPULATION AND JOINT REQUEST FOR
PROTECTIVE ORDER; PROTECTIVE ORDER

17
18 **I. STIPULATION**

19 1. The United States of America, by and through Assistant United States Attorney Kerry
20 Blackburn, together with Preciliano Martinez, counsel for Alberto Garibay (“Defense Counsel”), for the
21 reasons set forth below, hereby stipulate, agree, and jointly request that the Court enter a Protective
22 Order in this case restricting the use and dissemination of certain materials that could identify
23 undercover agents and/or confidential sources, and/or that contain personal identifying information
24 (“PII”) and other confidential information of real persons.

25 2. This Court may enter protective orders pursuant to Rule 16(d) of the Federal Rules of
26 Criminal Procedure, Local Rule 141.1, and its general supervisory authority.

27 3. On March 21, 2024, the Grand Jury returned an indictment charging the Defendant with
28 violations of 21 U.S.C. § 841(a)(1).

1 4. The Government will begin providing discovery to Defense Counsel within 14 days of
2 the Defendants' arraignment. At this time, the Government intends to disclose materials that could more
3 clearly identify undercover agents and/or confidential sources. The Government seeks to do so pursuant
4 to its discovery obligations, although some of the materials may exceed the scope of the Government's
5 discovery obligations and will be produced to promote a prompt and just resolution of the case.

6 5. The materials may include, but not be limited to: (1) audio recordings, video recordings,
7 photographs, investigative reports and/or other documents that could identify law enforcement
8 undercover agents and/or confidential sources; and (2) materials containing PII and other confidential
9 information of real persons. These real persons are third parties, codefendants, and/or witnesses to this
10 case. This discovery will be considered "Protected Material" as described in this stipulation and order,
11 as will any other discovery marked as Protected Material.

12 6. The purpose of this stipulation and order is to establish the procedures that must be
13 followed by Defense Counsel, any designated employees, and any other individual who receives access
14 to any Protected Material in this case and the information therein.

15 7. The Government shall produce the Material to Defense Counsel, designating the
16 discovery with the bates prefix, "GARIBAY_PM_." This discovery, and any subsequent material
17 discovered by the Government to Defense Counsel using this bates-prefix, shall be considered Protected
18 Material.

19 8. All Protected Material in this case is now and will forever remain the property of the
20 Government. It is entrusted to Defense Counsel only for purposes of representing the Defendant during
21 the pendency of this case.

22 9. Defense Counsel shall not give any Protected Material to any person other than Defense
23 Counsel's staff assisting in preparation of the present case. The term "staff" shall explicitly include only
24 attorneys, paralegals, legal assistants, retained experts, and investigators assisting Defense Counsel in
25 the present matter. The term excludes any other defendant in this matter or any other pending matter
26 against the Defendants; any person involved in any case in which discovery concerning the Defendants
27 are produced; and any other person other than those specifically authorized to see Protected Material
28 under this paragraph.

1 10. Any person receiving access to the Protected Material from Defense Counsel shall be
2 bound by the same obligations as Defense Counsel and, further, may not give any Protected Material to
3 anyone.

4 11. No members of the Defendant's family, friends of the Defendant, personal or
5 professional associates of the Defendant, or any other person affiliated with the Defendant or any
6 Defendant in a related case shall be given access to any Protected Material or its contents in any manner,
7 for any reason.

8 12. Defense Counsel may make copies of Protected Material and may take written or typed
9 notes summarizing it in connection with preparation of the case. If necessary to the litigation of the
10 instant matter, Defense Counsel may also have audio or video forms of Protected Material transcribed.
11 All notes, copies, duplicates, summaries, transcripts, or other representations of or concerning the
12 information in the Protected Material comprises "Protected Material" itself, must be affixed with the
13 corresponding bates numbers and the "Protected Material" ledger, and is subject to all terms of this
14 stipulation and order.

15 13. Defense Counsel shall maintain a list of persons to whom any Protected Material is being
16 or has been given. Such persons shall be provided with a copy of the executed version of this stipulation
17 and order, shall sign their full names to a copy, and shall in writing acknowledge that they understand its
18 terms and are bound by it. If Defense Counsel is replaced for any reason, or if new counsel is appointed
19 in any phase of the matter, the new counsel shall not have access to any Protected Material until and
20 unless they sign a copy of this stipulation and order.

21 14. Defense Counsel may use the Protected Material in the defense of their client in the
22 instant case in any manner deemed essential to adequately represent him (i.e., in motions that are filed
23 under seal, if necessary; in ex-parte applications as may be needed; and in reproducing and summarizing
24 Protected Material for use in trial preparation summaries, exhibits and as evidence, as may be needed),
25 consistent with this stipulation and order as it shall be originally prepared and signed.

26 15. In the event Defense Counsel needs to use any Protected Material in a manner not
27 authorized under this stipulation and order, Defense Counsel is entitled to seek to have this stipulation
28 and order amended by the District Court, after having given notice to counsel for the Government, in a

1 hearing before the District Court, to meet the obligations under the Sixth Amendment to the United
2 States Constitution.

3 16. Defense Counsel and any authorized members of Defense Counsel's staff are authorized
4 to review with Defendant the contents of the Protected Material. Defense Counsel and authorized
5 members of his/her staff, however, are prohibited from in any way giving Defendant any Protected
6 Material or any memorialization of the content of any of it, such as: any of the Protected Material itself;
7 copies of any of the Protected Material; copies of excerpts of any of the Protected Material; or
8 summaries of any of the Protected Material. This prohibition will not extend to the Defendant viewing
9 the Protected Material in open court should any of these materials or summaries thereof be used in the
10 litigation of this case.

11 17. Defense Counsel is authorized to show copies of the Protected Material to potential
12 witnesses in this case. Defense Counsel is prohibited, however, from in any way giving any potential
13 witness any Protected Material, or any memorialization of the content of any of it; or allowing any
14 potential witness to make a copy or in any way memorialize the contents of any Protected Material.

15 Respectfully Submitted,

16 Dated: March 28, 2024

PHILLIP A. TALBERT
United States Attorney

18 By: /s/ KERRY BLACKBURN
19 KERRY BLACKBURN
Assistant United States Attorney

20 Dated: April 8, 2024

/s/ PRECILIANO MARTINEZ
PRECILIANO MARTINEZ
Counsel for Defendant
Alberto Garibay

FINDINGS AND ORDER

The Court having read and considered the Stipulation and Joint Request for a Protective Order, which this Court incorporates by reference into this Order in full, hereby finds that GOOD CAUSE exists to enter the above Order.

IT IS SO FOUND AND ORDERED.

Dated: April 10, 2024


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE